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Subject: Designation Round 2007/2008—New Legislation Impacts CEQA Requirement

The Governor has signed new legislation that affects the applications requirements for enterprise zone designation. The legislation, Senate Bill 341, modified Section 7075 of the Government Code, which requires that applicants for designation comply with the California Environmental Quality Act (CEQA).

Under the new legislation, applicants for designation may submit only an initial study with their application if their initial study shows that a full environmental impact report (EIR) is not required. Later, if the applicant becomes conditionally designated, it may submit either a negative declaration or mitigated negative declaration instead of the EIR previously required of all newly-designated enterprise zones.

Because SB 341 was an urgency statute, it will apply to all applicants for the current designation round, which ends November 16, 2007. The legislation does not change the CEQA requirements for any of the enterprise zones that are currently conditionally designated.

Prior Requirements

Before SB 341, Section 7075 of the Government Code required all applicants interested in an enterprise zone to provide an initial study and a notice of preparation to the Department as part of their application for designation. Later, if the Department selected the applicant as a conditional enterprise zone, the applicant had to complete and certify an environmental impact report (EIR) and submit it to the Department to obtain its final designation.

New Requirements

Under the new legislation, cities and counties that apply for enterprise zone designation after October 1, 2007, must include an initial study with their application. If the jurisdictions determine, based on the initial study, that they should prepare an environmental impact report, they must also include a notice of preparation with the application. On the other hand, if the initial study indicates that a negative declaration is appropriate, the jurisdictions are not required to submit a notice of preparation with the application. In this case, the jurisdictions must only submit the initial study. Previously, applicants were required to submit both an initial study and the notice of preparation, regardless of the results of the initial study.

If the Department later selects an applicant as a conditional enterprise zone, the applicant must prepare and submit to the Department a draft environmental impact report, a negative declaration, or a mitigated negative declaration. Prior to final designation, the applicant shall approve the final EIR, or approve the negative declaration or mitigated declaration. Previously, the Government Code required all conditional enterprise zones to submit a draft EIR. Under the new legislation,

conditional enterprise zones may submit a negative declaration or mitigated declaration instead of the full EIR.

The changes to Section 7075 of the Government Code are effective immediately. As a result, we will incorporate the changes into the 2007/2008 guidebook for the Application for Designation, which is currently available on the Department's website at www.hcd.ca.gov.

If you have any questions about these changes, please call me at (916) 327-2862.

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